Petition

81-1412

No.

Office - Supreme Court, U.S.
FILED
JAN 27 1982
ALEXANDER L. STEVAS,
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

JOHN R. CONNOR, Petitioner,

v.

LUCAS PHILLIPS, Administrator, C.T.A., Estate of Mary A. Connor, Deceased, et al.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

John R. Connor, Pro se
380 Wyoming Avenue
Millburn, New Jersey
(201) 762-5587

QUESTION PRESENTED

Whether the dismissal of an appeal by the Appellate Division of the Superior Court of New Jersey from a judgment which admitted a will to probate, disqualified Appellant from serving as Executor, and appointed an Administrator, C.T.A., where said dismissal was predicated upon the appellate court's decision that said issues were res judicata, when there was neither any prior judgment of record adjudicating said issues nor any claim of res judicata advanced on behalf of either appellant or respondent, constitutes a substantial abridgement of Appellant's right, under the New Jersey Constitution of 1947, Art. VI, §V, ¶2, and R. 2:2-3(a), to one as of right appellate review of the trial court's judgment, and is, therefore, void under the Equal Protection and Due Process Clauses of the Fourteenth Amendment?

PARTIES TO THE PROCEEDING ARE:

John R. Connor, Executor-designate
380 Wyoming Avenue
Millburn, New Jersey 07041

Lucas Phillips, Esq., Administrator, CTA
400 Irving Avenue
South Orange, New Jersey 07079

Irwin P. Burzynski, Esq.
Hannoch, Weisman, Stern & Besser
744 Broad Street
Newark, New Jersey 07102

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

In the matter of

JOHN R. CONNOR, Petitioner,

v.

LUCAS PHILLIPS, Administrator, C.T.A., Estate of Mary A. Connor, Deceased, et al.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

Petitioner John R. Connor, Executor-designate of the Estate of Mary A. Connor, hereby petitions for a writ of certiorari to review the judgment of the Supreme Court of New Jersey in this case.

JURISDICTION

On June 10, 1981 the New Jersey Supreme Court entered an order dismissing the within appeal (App. C, infra, p. 8a). On October 29, 1981, the New Jersey Supreme Court mailed out an order carrying a filing date of July 9, 1981 which denied a Petition for Rehearing (App. D, infra, p. 9a). Appellant's motion for an order of amended date, of October 29, 1981, was denied by the New Jersey Supreme Court, whose Clerk has offered to forward a certified document to the U. S. Supreme Court confirming that the order denying the petition was not mailed out by the court until October 29, 1981. (App. F, infra, p. 11a). The jurisdiction of the Supreme Court is invoked under 28 U.S.C. §1257(c). The opinions herein are not reported.

CONSTITUTIONAL PROVISIONS AND COURT RULES INVOLVED

The Fourteenth Amendment to the United States Constitution provides in part:

> No state * * * shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Article VI, Section V, Paragraph 2 of the New Jersey Constitution (1947) provides:

> Appeals may be taken to the Appellate Division of the Superior Court of New Jersey from the Law and Chancery Divisions of the Superior Court and in such other cases as may be provided by law.

N. J. Sup. Ct. C.P.R. 2:2-3(a) provides:

> Except as otherwise provided by R. 2:2-1(a)(3) (final judgments appealable directly to the Supreme Court), appeals may be taken to the Appellate Division as of right (1) from final judgments of the Superior Court trial divisions * * *

N. J. Sup. Ct. C.P.R. 2:8-3(b) provides:

> Within 15 days after the filing of the notice of appeal a party may * * * move in the Appellate Division for a summary disposition on a showing that the issues involved on appeal do not require a full record or further argument.

STATEMENT

The within petition for a writ of certiorari is being filed in an attempt to gain, for the first time, legally meaningful appellate review of a trial court decision of the Superior Court of New Jersey, Chancery Division, in the matter of the Estate of Mary A. Connor.

Petitioner is the son of decedent Mary A. Connor [d. November 24, 1977] and is specifically appointed as executor in her will. Nevertheless, since May, 1978, Petitioner has had to engage in constant litigation in order to obtain his office and secure the removal of court-appointed Administrators from this estate.

So far, Petitioner's efforts have been successfully opposed by several attorneys, led by the Newark, New Jersey law firm of Hannoch, Weisman, Stern & Besser, who prefer that this estate be administered by an attorney

of their own choosing. These attorneys, who are not disinterested parties, have claims against the estate in excess of $50,000.

Petitioner has already been before the U. S. Supreme Court in another case in order to secure a writ of certiorari to review a May 26, 1978 judgment of this same court, which appointed an administrator of decedent's estate. The Court declined to grant the writ. John R. Connor, Petitioner v. George Warren, Administrator, Estate of Mary A. Connor, Deceased, et al., ____U.S.____(1981).

On December 4, 1979, while Petitioner's appeal of the administrator's appointment was still pending before the New Jersey Supreme Court, Administrator Warren resigned his office and was replaced by Lucas Phillips, Esq., Administrator, C. T. A.

That judgment, which is the subject of the within petition, in addition to changing administrators, also ordered: (1) the probate of decedent's Last Will and Testament and (2)

the disqualification of Petitioner from serving as executor. (App. A, infra, pp. 1-4a).

Petitioner duly appealed the December 4, 1979 judgment to the Appellate Division of the Superior Court of New Jersey. However, before Petitioner had an opportunity to submit a merits brief, respondent Hannoch, Weisman, Stern & Besser filed a motion for summary disposition of the appeal under R. 2:8-3(b). In its supporting brief, respondent Hannoch presented a single argument for affirmance of the trial court's judgment in its entirety. That argument read:

> "Argument: Due to the disrespectful and contumacious conduct of John R. Connor in the proceedings below, the decision of the lower court should be affirmed and John R. Connor should not be appointed executor of the Estate of Mary A. Connor." (Rb, p. 9)

In response to Petitioner's protest against the Hannoch strategy of having a multi-issue appeal disposed of on the basis of a single argument, the Appellate Division entered an order directing:

> Appellant Connor * * * to file an answering brief to the motion for summary disposition within 30 days of the date of this order; such brief to include the substantive arguments he desires to raise in seeking to reverse the judgment from which this appeal is taken.
> (App. E, infra, p. 10a)

In response to this order, Petitioner filed his appellate brief which contained four (4) arguments for reversal of the December 4, 1979 judgment. As stated in Petitioner's "Table of Contents" they read:

> Point 1. The December 4, 1979 Final Judgment probating the Last Will and Testament of Mary A. Connor is null and void because: the trial court lacked the necessary jurisdiction to enter judgment; the Administrator lacked the lawful power to apply for judgment because his powers were suspended; and the probate is the result of unlawful acts on the part of Administrator George Warren, Esq.
>
> Point 2. The refusal of the trial court to allow Appellant to serve as executor of the Estate of Mary A. Connor constitutes reversible error because said decision, being predicated upon unspecified reasons of "conduct," is insufficient to bar Appellant from his office as a matter of law.

Point 3. The December 4, 1979 Judgment admitting the last will and testament of Mary A. Connor to probate, on the petition of Administrator Warren, must be reversed by the appellate court in order to proceed with the caveat filed by Appellant prior to entry of judgment.

Point 4. The July 18, 1980 decision of the trial court on Appellant's motion to settle the record that the certifications of Reporters Tramer and Henley on their respective transcripts[November 14, 1979 and September 26, 1979] are legally invalid should be affirmed on appeal and any "amended" certifications that may be filed in this appeal should be rejected as "hearsay."

With respect to the issue of Petitioner's "disqualification" as executor [Petitioner's Argument 2], which is the only argument briefed by both parties, Respondent Hannoch predicated its argument for affirmance on its assertion that "there is no statute and little case law regarding disqualification of an Executor [and] the standards for disqualification * * * would appear to be identical to those for the removal of an Executor [under] N.J.S.A. 3A:11-4." [1]

[1] Respondent's appellate brief, p. 11

Respondent Hannoch then proceeded to argue, by analogy, to various statutory causes for removal of a fiduciary who had already served in his office (i.e., failure to file an inventory, neglect to obey a court order, embezzlement of estate assets, mental incapacitation, etc.) to buttress its "disqualification" argument.

Petitioner responded to this argument by citing to New Jersey law which clearly establishes that, basically, an individual can only be barred from serving as an executor "upon a showing that the position was acquired as a result of fraud, misconduct or breach of trust." In re Estate of Margow, 77 N.J. 316, 390 A.2d 591 (1978). Antagonistic feelings between the executor and legatees are "not a sufficient reason for excluding [testator's nominee] from the executorship." Acker's Case, 70 N.J. Eq. 669, 62 A. 556 (Prerog. Ct. 1906). An executor cannot even be barred from office if the testator selected as his representative an "irresponsible, insolvent person." Holcomb v. Coryell,

12 N.J. Eq. 289 (E. & A. 1857). An executor will not even be barred from office because of his failure to probate a will immediately after the testator's death. Acker's Case, supra. In short, the general rule in New Jersey is that "[a]n executor is not lightly, or by slight or indirect circumstances, to be precluded from the trust the testator intended to confide in him." In re Maxwell, 3 N.J. Eq. 611 (Prerog. Ct. 1832).

Not only did the record in this case contain no evidence whatsoever that Petitioner had acquired his executorship through "fraud, misconduct or breach of trust" but also Petitioner argued that the trial court's specific reason for disqualification ("ORDERED that due to the conduct of John R. Connor in this action as set forth in the record herein . . .") was meaningless and constituted no "legal" cause at all for disqualification.

* * * * * *

In support of his argument for reversal of probate of decedent Mary A. Connor's will [Argument 1], Petitioner cited to New Jersey probate law which holds that the "effect of an appeal from the decree of a probate court is to suspend the operation of the decree appealed from." Brown v. Ryder, 42 N.J. Eq. 358, 7 A. 568 (Prerog. Ct. 1886). And, more specifically, that "where an appeal has been taken from the appointment of an administrator, his powers are suspended." Brown, supra.

Accordingly, Petitioner argued, because the probate of Mary A. Connor's will was effected by an administrator (George Warren, Esq.) whose appointment was still being appealed, and whose powers were therefore suspended, that probate was legally invalid under New Jersey law.

Petitioner additionally argued in Argument 1 that a New Jersey probate court is without jurisdiction to revoke its decree appointing an administrator and substituting another while an appeal from the first decree is still pend-

ing. Hill's Case, 55 N.J. Eq. (Prerog. Ct. 1897). Furthermore, because the probate of decedent's will was the direct result of an unlawful arrest of Petitioner by Administrator Warren, it violated the equitable maxim that "the law will not assist a person to reap the fruits or benefits of an unlawful act." Appell v. Reiner, 81 N.J. Super. 241 (Ch. 1963).

[Petitioner will not, at this juncture, expound on his "caveat" and "certification" arguments (Points 3 and 4) because same are not directly at issue in this petition, except to note that those issues are similarly supported by numerous citations to New Jersey case law in an appellate brief whose argument runs to 30 pages.]

* * * * * *

The end result of Petitioner's appellate arguments for reversal of the December 24, 1979 judgment was a per curiam opinion by the Appellate Division on September 18, 1980

that arbitrarily dismissed Petitioner's "caveat" and "transcript" arguments (Points 3 and 4) but fraudulently decided the "probate" and "disqualification" arguments (Points 1 and 2) on the ground that:

> Points one and two raised by appellant have already been adjudicated below and affirmed, and are therefore barred by res judicata. (App. B, infra, pp.5-7a)

The Appellate Division then dismissed the entire appeal!

Petitioner subsequently filed a Petition for Rehearing with the Appellate Division and argued not only that the "probate" and "disqualification" issues were not res judicata, because there was no other judgment of record (or even pleaded by Respondent Hannoch) adjudicating these two issues but also for the appellate court to dismiss this appeal on such a patently false and erroneous reason substantially violated Appellant's constitutional "due process" right to one appellate review of the trial court's judgment. The

petition was denied.

On November 12, 1980 Petitioner appealed the Appellate Division's decision to the New Jersey Supreme Court (Estate of Mary A. Connor, Docket No. 17,843) and argued that the Appellate Division's decision, being predicated upon a fraud, violated Appellant's right, under R. 2:2-3(a), to appellate review of the trial court's judgment and was, therefore, void under the Due Process Clause of the Fourteenth Amendment.

The petition was dismissed by the New Jersey Supreme Court on June 10, 1981 "for failure to state a substantial constitutional issue." (App. C, infra, p. 8a).

Petitioner then filed a Petition for Rehearing, restating the constitutional issue in this case in question form, which read:

> QUESTION: Whether the dismissal of an appeal by the Appellate Division of the Superior Court of New Jersey from a judgment which admitted a will to probate, disqualified Appellant from serving as executor, and appointed an Administor, C.T.A., where said dismissal was predicated upon the

> appellate court's decision that said issues were res judicata, when there was neither any prior judgment of record adjudicating said issues nor any claim of res judicata advanced on behalf of either appellant or respondent, constitutes a substantial abridgement of Appellant's right, under R. 2:2-3(a), to an As of Right appellate review of the trial court's judgment, and is, therefore, void under the Due Process Clause of the Fourteenth Amendment?

The New Jersey Supreme Court denied the petition in an order mailed to Petitioner on October 29, 1981, which order carries a filing date of July 9, 1981. (App. D, infra, p. 9a). Appellant's motion for an order of an amended date of October 29, 1981 was denied by the court, however, the Clerk of the New Jersey Supreme Court has offered to certify to the U. S. Supreme Court that the order denying the petition was not mailed out until October 29, 1981. (App. F, infra, p. 11a).

* * * * * *

REASONS FOR GRANTING THE WRIT

Petitioner has diligently researched pertinent case law on the constitutional issue presented in this petition and was, unfortunately, not able to find a case where a similar appeal was dismissed by an appellate court on the basis of a court's sua sponte finding of res judicata where, in point of fact, no prior judgment of record existed adjudicating the issues raised on appeal.

Nevertheless, the constitutional novelty of the question should present no bar to its consideration by the U. S. Supreme Court, inasmuchas the appellate dismissal, and the subsequent refusal of the New Jersey Supreme Court to entertain an appeal on the constitutional issue are in conflict with numerous "due process" and "equal protection" decisions of the U. S. Supreme Court, as hereinafter cited, as well as decisions of the New Jersey Supreme Court and federal appeals courts.

Art. VI, §5, ¶2 of the New Jersey Constitution (1947) gives a litigant the "right" to take appeals to the Appellate Division of the Superior Court of New Jersey from the Law and Chancery Divisions of the Superior Court. "The New Jersey court system contemplates one appeal as of right to a court of general appellate jurisdiction . . ." Midler v. Heinowitz, 10 N.J. 123, 89 A.2d 458 (1952). Furthermore, the "[r]ight of access to appellate review implies the right to effective review." In re Minehan, 130 N.J. Super. 298, 326 A.2d 118 (1974). (emphasis added). The U. S. Supreme Court has held that: "While a statutory review is important and must be exercised without discrimination, such a review is not a requirement of due process." National Union of Marine Cooks and Stewards v. Arnold et al., 348 U.S. 37 (1954).

Did the New Jersey Supreme Court, therefore, violate Petitioner's due process and equal protection rights when it declined to review

the Appellate Division's dismissal of Petitioner's appeal from the December 4, 1979 probate judgment?

* * * * * *

Implicit in the concept of due process is the concept of decency and fair play. Galvin v. Press, 347 U.S. 522 (1954), rehearing denied 348 U.S. 852 (1954). Breihaupt v. Abram, Warden, 352 U.S. 432 (1957). Moreover, an end cannot be accompanied by means that are arbitrary, unreasonable and capricious. Nebbia v. New York, 291 U.S. 502 (1934).

To test a denial of due process one must look at the totality of facts in a given case. Betts v. Brady, Warden, 316 U.S. 455 (1942).

The operative facts in the within case demonstrate that Petitioner's appeal of the terms of the December 4, 1979 probate judgment (i.e.: the probate of his mother's will; Petitioner's disqualification as executor;

and the appointment of an Administrator, CTA, to replace a prior administrator) was dismissed on the basis of an Appellate Division decision that these issues "have already been adjudicated below and affirmed, and therefore are barred by res judicata."(App. B, infra, pp. 5-7a).

As stated by Petitioner in his Statement of Facts, infra, no such prior judgment of record exists. No claim of res judicata was ever advanced by either party to the appeal and the Appellate Division does not cite to any such judgment, as a result of which there was no "effective" review of the merits of Petitioner's arguments for reversal of the trial court's judgment.

It has been held that a court may go outside the record and even take judicial notice of an "official declaration" of a foreign government, which, though not introduced as evidence, was deemed to come within the purview of a New York statute authorizing the

use of "other written law." U. S. v. Pink, 315 U.S. 203 (1942).

However, there is no case of record which would allow a court in the United States, state or federal, to "invent" a judgment for the purpose of declaring a matter res judicata.

* * * * *

Decisions of the U. S. Supreme Court have consistently sustained a denial of due process in a variety of analogous situations. For example, the use of coerced confessions or false or perjured testimony to obtain a guilty verdict has been deemed to constitute a denial of due process. Lisenba v. California, 257 U.S. 312 (1921). Accord: Hysler v. Florida, 314 U.S. 219 (1941). White v. Ragen, Warden, 324 U.S. 760 (1945).

Indeed, in view of the Appellate Division's deliberate manner in asserting the falsehood of res judicata, one is confronted with nothing less than a fraudulent appellate judg-

ment. The U. S. Supreme Court has historically been vigilant in asserting the principle that "[j]udgments and grants obtained by fraud or collusion are void and confer no vested title." League v. De Young, 52 U.S. 185 (1850). Accord: Shelby v. Bacon, 51 U.S. 56 (1850). Nudd v. Burrows, 91 U.S. 426 (1875).

* * * * * *

The Third Circuit Court of Appeals has held that "[a] litigant is entitled to the honest, unbiased judgment of the judges of those courts before whom his case comes, and to a full hearing and full argument in order that the merits of his side of the controversy may be established." Deppe v. General Motors Corp., 131 F.2d 379 (C.C.A.N.J. 1943).

R. 2:8-3(b) allowed Respondent Hannoch to move in the Appellate Division for a summary disposition on a "showing that the issues involved on appeal do not require a full record or further argument." According to the

commentary by Sylvia Pressler to R. 2:8-3(b):

> 2. Paragraph (b) of this rule adopted as part of the 1978 Appellate Division practice revision and providing for a summary disposition practice in the Appellate Division, was intended to provide a pretranscript, preargument opportunity for the screening out of appeals whose ultimate outcome is so clear as not to require for decision full perfection and hearing.

New Jersey Rules 2:8-3(b), p. 278 (1981).

In the within appeal, due to the fact that Respondent Hannoch never replied to Petitioner's Arguments 1, 3 and 4 (See: infra, pp. 7-8), the appeal was not a candidate for summary disposition and the matter should have been set out for full briefing and argument on its merits, because an unfounded, untrue and fraudulent claim of res judicata was unfairly launched on Petitioner in a final judgment, without affording Appellant the opportunity of full briefing and rebuttal.

It is well-established that the federal guarantee of due process extends to a State's judiciary. Brinkerhoff-Faris Co. v. Hill, 281 U.S. 673 (1930). Furthermore, that the protection of the Fourteenth Amendment can be invoked "only if a state deprives any person or denies enforcement of a right guaranteed." Rice v. Sioux Memorial Park Cemetery, Inc. et al., 349 U.S. 70 (1955).

The Appellate Division's false and erroneous res judicata finding substantively deprived Petitioner of his "right," under the New Jersey Constitution, Art. VI, §V, ¶2, to one as of right appellate review of the trial court's December 4, 1979 probate judgment in its entirety, and because that appellate review was not without substantial discrimination against Petitioner, who is thereby being arbitrarily deprived of his executorship, it violated both Petitioner's "due process" and "equal protection" rights

under the Fourteenth Amendment.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, with vacation of the judgment of the New Jersey Supreme Court and remand for full appellate consideration of all issues raised in this appeal, on the merits.

Respectfully submitted,

JOHN R. CONNOR, Pro se

26 January, 1982

APPENDIX A

JUDGMENT OF THE SUPERIOR COURT,
CHANCERY DIVISION, ESSEX COUNTY
Docket No. P-392-77
(Filed December 4, 1979)

In the matter of

THE ESTATE

OF

MARY A. CONNOR, DECEASED.

Before:
GAULKIN, Chancery Judge.

GAULKIN, Chancery Judge:

This matter coming before the Court on November 14, 1979, the return date of an Order to Show Cause of George Warren, Esq., Administrator of the Estate of Mary A. Connor for probate of the Will of Mary A. Connor and in the presence of the Administrator pro se (George Warren, Esq. appearing) and several creditors of Mary A. Connor: namely,

Hannoch, Weisman, Stern & Besser, P. A., plaintiff pro se (Irwin P. Burzynski, Esq. appearing); Milton, Keane & Brady pro se and attorneys for Fred Blackwell (John B. O'Neill, Esq. appearing); Fred Blackwell, Esq. appearing; and the Beneficiaries of the Estate of Mary Ellen Flynn (John Anthony Lombardi, Esq. appearing);

And the Court having read the Petition, Answers, Claims, Certification and Memorandum of Law in connection herewith including the transcript of proceedings in this action of November 26, 1979,

And the Court having inquired into the circumstances and taken proof, and being satisfied as to the genuineness of the Will, the validity of its execution and the competency of the testatrix, and it further appearing that the testatrix died on November 24, 1977, and that no caveat has been filed against the probate of said Will, and for good cause shown,

It is on this 3 day of December, 1979,

ORDERED and ADJUDGED that the instrument offered for probate in this matter be and it is hereby established as the last will of Mary A. Connor, deceased, and it be and hereby is admitted to probate; and it is further

ORDERED that due to the conduct of John R. Connor in this action as set forth on the record herein and notwithstanding the designation of the testratrix of John R. Connor as Executor, the Court will appoint someone else to act as fiduciary for the Estate of Mary A. Connor; and it is further

ORDERED that upon notice to all parties in interest, letters of Administration with the will annexed upon the Estate of Mary A. Connor be granted to Lucas E. Phillips, Jr., Esq. of 18 Beaver Street, Newark, New Jersey 07102, telephone number (201) 624-0600, upon his giving bond to the Superior Court of New Jersey in the sum of $25,000, conditioned

according to law, and with sureties to be approved by this Court; and it is further

ORDERED that George Warren, Esq. may hereby withdraw as Administrator of the Estate of Mary A. Connor and that he is to present his final account, together with any requests for fees and disbursements, to the Court on December 7, 1979, at 9:00 in the forenoon, whereupon he may be discharged as Administrator of the Estate of Mary A. Connor.

/s/ GEOFFREY GAULKIN,
J. S. C.

APPENDIX B

ORDER OF THE SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

Docket No. A-1889-79

(Filed Sept. 19, 1980)

In the matter of

THE ESTATE

OF

MARY A. CONNOR, DECEASED.

Before:

MATTHEWS, Presiding Judge,
ARD and POLOW, Appellate Judges.

This matter having been duly presented to the Court, it is hereby ordered as follows: Motion for Summary Disposition: See opinion attached.

FOR THE COURT:

/s/ ROBERT A. MATTHEWS,
P.J.A.D.

OPINION OF THE SUPERIOR COURT OF
NEW JERSEY, APPELLATE DIVISION
Docket No. A-1889-79
(Filed Sept. 19, 1980)

In the matter of

THE ESTATE

OF

MARY A. CONNOR, DECEASED.

Before:

MATTHEWS, Presiding Judge,
ARD and POLOW, Appellate Judges.

Per Curiam

Points one and two raised by appellant have already been adjudicated below and affirmed, and therefore are barred by res judicata. Point three is based upon surmise and personal opinion, neither of which would constitute competent proof of the allegation, which, at best, is premature. Point four is

frivolous. Transcripts are not "evidence" on appeal.

Appeal dismissed.

APPENDIX C

ORDER OF THE SUPREME COURT OF NEW JERSEY
SUPREME COURT OF NEW JERSEY

Docket No. 17,843
(Filed June 10, 1981)

In the matter of

THE ESTATE

OF

MARY A. CONNOR, DECEASED.

Before:

WILENTZ, Chief Justice.

This matter having been duly considered by the Court, it is ORDERED that the appeal is hereby dismissed for failure to state a substantial constitutional question as required by R. 2:2-1(a).

WITNESS:

The Hon. ROBERT N. WILENTZ,
Chief Justice

APPENDIX D

ORDER OF THE SUPREME COURT OF NEW JERSEY
SUPREME COURT OF NEW JERSEY

Docket No. 17,843
(Filed: July 9, 1981)
(Mailed: Oct. 29, 1981)

In the matter of

THE ESTATE

OF

MARY A. CONNOR, DECEASED.

Before:

WILENTZ, Chief Justice.

This matter having been duly presented to the Court, it is ORDERED that the motion for rehearing is denied.

WITNESS:

The Hon. ROBERT N. WILENTZ,
Chief Justice

APPENDIX E

ORDER OF THE SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

Docket No. A-1889-79
(Filed Mar. 7, 1980)

In the matter of

THE ESTATE

OF

MARY A. CONNOR, DECEASED.

Before: MATTHEWS, Presiding Judge.

Appellant Connor is directed to file an answering brief to the motion for summary disposition within 30 days of the date of this order; such brief to include the substantive arguments he desires to raise in seeking to reverse the judgment from which this appeal is taken. We retain jurisdiction.

FOR THE COURT:

/s/ ROBERT A. MATTHEWS,
P.J.A.D.

APPENDIX F

SUPREME COURT OF NEW JERSEY
State House Annex
Trenton, N.J.08625

December 10, 1981

Mr. John R. Connor
380 Wyoming Avenue
Millburn, N.J. 07041

RE: ESTATE OF MARY A. CONNOR(#17,843)

Dear Mr. Connor:

Enclosed please find a copy of the Court's order denying your application for the issuance of a new order by the Supreme Court. As I advised you earlier, I remain willing to inform the United States Supreme Court that our records erroneously failed to reflect the July disposition of your case. I will further state that our records reflect that you sent two letters in October asking about the disposition of the matter. By that time, the disposition had been docketed and a copy of the order was forwarded to you on October 29, 1981.

If you would like such a document prepared, please advise me and I will forward it directly to the United States Supreme Court with a copy to you.

Very truly yours,

/s/ STEPHEN W. TOWNSEND,
Clerk, New Jersey
Supreme Court

SWT:dlk